



- *Accountability*
- *Transparency*
- *Integrity*

Governance Review

Town of Colonie Industrial Development Agency

April 3, 2008

GR-2008-01

Table of Contents

Topics	Page Number
Executive Summary	ES
Introduction and Background of the Authority	1
Compliance Review Objectives	2
Compliance Review Scope and Methodology	2
Compliance Review Results:	
- Governance and Oversight	
• Board Composition	3
• Board Duties	3
• Policies of the Board	6
• Conflicts of Interest	6
• Financial Disclosure	6
• Committees	7
• Training	8
- Management Practices	
• Internal Control Assessment	9
• Uniform Tax Exemption Policy	9
• Financial Controls	10
• Property Disposition	10
• Procurement Guidelines	11
• Investment Guidelines	11
• Public Access	12
• Annual Report	12
• Annual Financial Report	13
• Budget Report	13
Compliance Issues Summary	14
Good Governance Recommendations	16

Executive Summary

Purpose and Authority:

The Authority Budget Office (ABO) is authorized by Section 27 of the Public Authorities Accountability Act (Act) to review and analyze the operations, practices and reports of public authorities and to assess compliance with various provisions of Public Authorities Law and other relevant State statutes. This includes rendering conclusions and opinions regarding the performance of public authorities and to assist these authorities improve management practices and the procedures by which their activities and financial practices are disclosed to the public. Our governance review of the Town of Colonie Industrial Development Agency was performed in January and February 2008 and conducted in accordance with our statutory authority and compliance review protocols which are based on generally accepted professional standards. The purpose of our review was to provide an objective determination of the extent of the Agency's statutory compliance.

Background Information:

The Town of Colonie Industrial Development Agency (Agency) was created in 1977 as a public benefit corporation pursuant to Section 911-d of the General Municipal Law. The Law authorized the Agency to promote, develop and assist in acquiring and developing facilities for economic development. The Agency has seven Board members, all appointed by the Town of Colonie Board of Supervisors, and is managed by an Executive Director, who is the appointed Director of the Town Department of Planning and Economic Development. During the scope of our review period, the Board and Agency staff were substantially replaced by the Town Board. Primary sources of capital for projects are administrative fees and interest income generated from investments. The Authority received over \$304,000 in revenue for the year ended December 31, 2007, and had operating expenses of approximately \$109,000.

Results:

Our review found that the Agency Board appears to be actively involved in the oversight of new financial assistance applications and that Agency business is conducted in an open and transparent manner. However, we found the Board to be less involved with the operational and fiscal oversight of the Agency. This may be because all Agency work is done by Town employees who are governed by Town rules and regulations, and the Board may have over-relied on the implicit oversight of this organizational structure. Accordingly, progress toward compliance with certain provisions of the Public Authorities Accountability Act and other laws has been limited. In particular, the Agency has consistently failed to meet certain reporting requirements, has not established required policies and guidelines, and records management and retention practices have been inadequate. The Agency generally agreed with the findings and recommendations in this report and indicated that they will work toward complying with the provisions of the Act by revising and adopting additional policies, as necessary.

Introduction and Background of the Authority

The Town of Colonie Industrial Development Agency (Agency) was established in 1977 as a public benefit corporation pursuant to Section 911-d of the General Municipal Law. The Agency is responsible for encouraging economic growth and expansion in order to promote job opportunities and the general welfare of residents in the Town of Colonie and the State of New York.

In general, Industrial Development Agencies (IDAs) offer financial incentives to attract, retain, and expand businesses to improve economic conditions in their respective locales. The assistance granted to these businesses can include issuing low interest Industrial Development Revenue Bonds to finance the costs of a project, as well as granting exemptions from real property taxes, mortgage recording taxes and sales and use taxes. A portion of the local real property tax exemption is often recaptured in the form of payments in lieu of taxes (PILOTS) made by the assisted business to the impacted taxing district. When Industrial Development Revenue Bonds are issued, the project is leased to the business for a period of time equal to the term of the bond issue. The lease payments are then typically set at an amount sufficient to pay the annual principal and interest on the bonds. Once the outstanding bonds have been paid, the business has the option to purchase the project from the IDA for a nominal fee.

The Agency's fiscal year begins on January 1, and as of December 31, 2007, the Agency had over \$2.4 million in assets, over \$2 million of which are investments. Revenue received by the Agency for 2007 was over \$304,000: \$190,000 from administrative fees and about \$114,000 in interest income. Operating expenses for 2007 were approximately \$109,000. During 2006 the Agency had 18 projects, and approved five additional projects during 2007 and January 2008. Three of the projects are financed with Industrial Development Revenue Bonds; a total of \$26.4 million was outstanding on these bonds as of December 2007.

The Agency has a seven-member Board of Directors, which is appointed by the Town of Colonie (Town) Board of Supervisors. As a result of the November 2007 election, there was a significant change in the political composition of the Town Board. This resulted in significant turnover, as well, in the Agency Board and staff supporting the Agency's operations. In January 2008, six new Agency Board members were appointed.

The Agency operates more as a component of the Town than an independent entity, and the Town's Department of Planning and Economic Development staffs the Agency. The appointed Director of the Department serves as the Agency's Executive Director. Additional financial and administrative services for the Agency are provided by the Town Comptroller. The current Director and Comptroller assumed their positions in January 2008. Staff salaries and benefits are paid by the Town in the first instance, and partially reimbursed by the Agency in accordance with

a shared administrative services agreement. In 2007, the Agency paid about \$28,000 for these services.

Compliance Review Objectives

The Authority Budget Office (ABO) is authorized by Section 27 of the Public Authorities Accountability Act (Act) to conduct reviews and analyses of the operations, practices, and reports of public authorities to assess compliance with provisions of the Act, Public Authorities Law, and other statutes. Our governance review was conducted to provide an objective determination of the Agency's compliance with applicable provisions of the Act, Public Authorities Law and General Municipal Law.

Compliance Review Scope and Methodology

Our compliance review was conducted in January and February of 2008, and covered selected Agency operations for the period January 2007 through February 2008. Our review focused on the effectiveness of the governing Board and Agency management. Specifically, we reviewed:

- Board duties and committee involvement
- Board member participation in State-approved training
- Policies and procedures required under the Act, Public Authorities Law, General Municipal Law and Public Officers Law
- Policies and procedures indicative of good governance practices
- Cash and investments, and asset management practices
- Independent financial audits and other reporting
- Adherence with reporting requirements
- Project review, approval and monitoring processes

In addition to reviewing financial and organizational documents and records, we interviewed management; attended a Board meeting; and performed other testing we considered necessary to achieve our objectives. Our report contains recommendations to ensure the Agency's compliance with the Public Authorities Law, General Municipal Law and other applicable laws. In addition, we have included recommendations for improving corporate governance practices. The results and recommendations of our compliance review were discussed with Agency management and their comments have been considered and are reflected in this report where appropriate.

Compliance Review Results

Governance and Oversight

Board Composition

Section 2824(3) of Public Authorities Law states that no board member, including the chairperson, shall serve as a public authority's chief executive officer, executive director, chief financial officer, comptroller, or hold any other equivalent position while also serving as a member of the board. The purpose of this section is to separate management functions from the oversight functions of the board. In addition, good governance practices suggest that public authority board member duties and responsibilities should be clearly defined, so that board members understand their roles and are better able to effectively perform their governance responsibilities consistent with the mission of the public authority.

We found that the Agency's by-laws identify the purpose and powers of the Agency, the responsibilities and duties of members and officers, and some procedures for scheduling meetings. The by-laws also appear to vest management functions in the Board, which is inappropriate and inconsistent with the provisions of Public Authorities Law, specifically the requirement that the oversight responsibility of the Board be clearly segregated and distinct from the operational responsibilities of management. For example, the by-laws call for a Board member to serve as Treasurer, with the authority to act as the Chief Financial Officer. The Treasurer is responsible for the custody of all Agency funds, and for maintaining the accounts of the Agency. Despite the by-laws, however, these duties and responsibilities are actually carried out by the Town Comptroller, pursuant to the administrative services agreement.

In addition, the by-laws call for the Chair to act in the capacity of an Executive Director. The by-laws state the Chair has exclusive responsibility for executing all agreements, contracts, and financial assistance documents on behalf of the Agency. Although the Agency has an Executive Director, these management duties continue to be performed by the Board Chair.

During our review, Agency Board members and management indicated that they are working to revise their by-laws to reflect recent changes in the Board and to clarify the responsibilities of the Executive Director to be better positioned to comply with the requirements of the Public Authorities Accountability Act, given the organizational structure of the Agency.

Board Duties

Section 2824 of Public Authorities Law stipulates that public authority board members should execute direct oversight of senior management in the

administration of the authority and understand, review, and monitor the implementation of fundamental financial and management controls and operational decisions of the authority. Good governance principles also dictate that public authority board members act in good faith and in the authority's best interest, and perform their oversight function consistent with the mission of the public authority and the public's interests. In addition, authorities should conduct business in an environment that fosters transparency and enhanced public disclosure, focuses on accountability, and supports external oversight.

It appears that the Board functions openly and transparently. We reviewed Board minutes for 2007 and January 2008 and attended a Board meeting in 2008. During this period, eight Board meetings were held, and a quorum was present at seven of the eight meetings. On one occasion, the Board entered executive session, and upon return to the public meeting, the Board fully disclosed the issues discussed while in executive session and the results of those discussions. There were six public hearings on proposed projects, each of which was attended by one or more Board members. The Agency follows a practice of requiring project applicants to attend the public hearings so that the applicant is available to respond to questions raised by Board members or the public. The Board discusses all project related matters openly, either in the public hearing or public meeting, and adequately provides for public participation regarding potential projects.

We found that the Board is actively involved in overseeing staff reviews and their processing of financial assistance applications. In advance of the Board meetings, the Executive Director provides board members with an agenda, copy of the notice for public meetings, information on completed financial assistance applications received by the Agency, and drafts of proposed resolutions. This information allows the Board to exercise effective oversight of management decisions and activities related to potential projects. From the Board minutes we reviewed and the meeting we attended, Board members appeared to be well-informed about potential projects, and raised appropriate questions about the benefits of such projects, including job creation and retention opportunities and the planned relocation of companies to the Town.

However, we found the Board is less informed about the financial operations and administration of the Agency. Board members are not provided with basic information that compares budgeted to actual receipts and expenditures on a regular basis, and there was no indication that the Board questioned or requested such information from management. In addition, the Town Comptroller prepares quarterly investment reports and annual financial reports for the Agency. It appears that these reports are provided to the Board Chair; however there is no indication that these reports were reviewed or presented to the whole Board. This lack of financial oversight could be due, in part, to over-reliance on the Board Chair to carry out management functions, in addition to the Board's deference to the Town, since Agency operations are conducted by Town employees. We noted that in the

January 2008 meeting, current Board members requested that budget information and copies of the annual financial report be provided to them in the future.

Good governance practices suggest that public authority board members adopt a uniform application for the purpose of receiving, reviewing and approving requests for financial assistance from companies. We found that Agency management has developed a comprehensive financial assistance application for businesses to complete when seeking financial assistance for a proposed project. This application requests information such as a detailed project description, the number of jobs being created or retained, total project costs, and the type and amount of financial assistance requested. The application also includes a cost-benefit analysis that compares the amount of financial assistance requested with the number of jobs to be created and retained, the estimated payroll associated with those jobs, the sales and property tax revenue expected to be generated, and the anticipated increase in assessed property value as a result of the project. Further, the application stipulates that applicants approved for financial assistance must file annual employment reports with the Agency and file tax exemption information with the New York State Department of Taxation and Finance. The Agency's detailed financial assistance application could be used to objectively evaluate prospective projects and monitor existing projects.

We reviewed four financial assistance projects that had been approved by the Agency, and found that three of the projects completed all information requested in the application. However, one project that was approved in 2003 did not provide estimated payroll or sales tax information, or the projected increase in the assessed property value. Nevertheless, the Agency approved \$40,000 in mortgage tax exemptions and \$150,000 in sales tax exemptions for 2004 and 2005 for the project. The project owner later requested the exemptions for sales tax be extended by the Agency in 2006 and again in 2007. However, the Board did not require the project owner to justify the need for the extension of the exemptions. Based on documentation provided for this project, it is uncertain how approval and benefits of this project were determined, or why they were extended.

Good governance practices indicate that agencies should develop evaluation criteria to enable the Board to use standard objective criteria to approve projects. Although the Board generally raises relevant questions about information in the financial assistance applications during the public hearings and meetings, there is nothing in the meeting minutes or project files to indicate that the Board applies standard criteria in its project approval process. Agency management is aware of this issue, but stated that they have not yet developed standard criteria to evaluate and approve projects.

Good governance practices indicate that agencies should monitor project performance to ensure that project terms are met. Agency management sends out an annual employment survey and cost benefit form to collect employment and exemption information each year from each project. However, there is no indication

that management or the Board uses this information to monitor the project for adherence with the terms stipulated in the application. Therefore, it appears that the Agency is not effectively monitoring active projects to ensure that project owners are delivering the benefits agreed to in the approved financial assistance application. Agency management stated that they will work toward developing procedures to monitor project performance and the Executive Director has visited one of the active project sites to determine whether the project was meeting the requirements, as stipulated in the approved application.

Policies of the Board

Section 2824(1) of Public Authorities Law requires Board members to establish policies regarding the salary and compensation of senior management, adopt a code of ethics, establish a whistleblower protection policy, and adopt a defense and indemnification policy. We found the Board has adopted a code of ethics, defense and indemnification policy, and whistleblower policy. The Board has also adopted the Town's salary and compensation policy and time and attendance policy.

Conflicts of Interest

Section 803 of General Municipal Law states any municipal officer or employee who has, will have or later acquires an interest in any actual or proposed contract with the municipality of which he or she is an officer or employee shall publicly disclose the nature and extent of such interest in writing to the governing body, and that this written disclosure should be made part of the official record of the proceedings. Furthermore, board members must disclose any relationship prior to the authority considering doing business with a vendor, and the board member should be recused from any board discussion or decision on such transactions.

We found that the Agency has taken appropriate measures to ensure that conflicts of interest are avoided, or are disclosed in writing. Even in the instance of a potential conflict of interest, members are expected to disclose this potential conflict. For example, the Agency's policies and procedures require that all Board members be independent, and the code of ethics requires that any individual with a material interest in a potential project disclose this interest in writing and not be present during any meeting in which the potential project is discussed. We also noted instances where Board members were asked to disclose even the appearance of conflict with proposed projects prior to the project being discussed and instances where members voluntarily disclosed even indirect relationships that would not be considered conflicts of interest, so as to be perceived as not having an apparent conflict.

Financial Disclosure:

Section 2825 (3) of the Public Authorities Law requires board members, officers, and employees of local public authorities to follow financial disclosure policies established by the county board of ethics for the county in which the local public authority has its primary offices. The Town of Colonie has established a financial disclosure policy that requires members and employees to file financial disclosure statements with the Town Attorney by December 31st of each year, or within 45 days of appointment. We found that the Agency's Board approved a policy requiring Board members and staff to comply with the Town's financial disclosure requirement. We found that six of the seven Board members and all Agency staff filed financial disclosure documents for 2007, and four of the six members appointed in January 2008 filed their financial disclosures within the 45 day timeframe. Two Board members have yet to file their financial disclosure documents. The seventh Board member was appointed in February 2007; the 45 day filing period had not yet lapsed during our review.

Committees

Section 2824(4) of Public Authorities Law requires authorities to establish an audit committee and a governance committee. The audit committee is responsible for recommending a certified independent accounting firm, establishing the independent auditor's compensation and providing direct oversight of the execution of the authority's independent audit. The governance committee is responsible for reviewing corporate governance trends, keeping the Board informed of best governance practices, updating the authority's corporate governance principles and advising appointing authorities on the skills and experiences required of potential board members. The formal establishment of the audit and governance committees helps a public authority to improve oversight and accountability within the organization and to assist the board of directors in making better decisions.

The Agency has established an Audit Committee, appointed three Board members to serve on the committee, and stipulated that the Audit Committee is to engage the Agency's auditor and review the audit report. The Audit Committee is not responsible for selecting the auditor or setting the amount of compensation because this is done by the Town. The Audit Committee formally met once in January 2007 to review the financial information of the Agency with the Town Comptroller. However, the Audit Committee has not met since then, although the Committee should have met to engage the auditor for the annual independent audit completed in December 2007. In addition, the Committee has not adopted an Audit Committee charter.

The Agency did establish a Governance Committee, as a committee of the whole, and stipulated that the Committee is responsible for keeping the Board apprised of current corporate governance principles and advising the Town Board of the skills and experiences needed of new board members. However, the Governance

Committee has not met and has not adopted a charter. In January 2008, the Board reconstituted the Governance Committee to be comprised of three members, and has appointed two members to the Committee.

Agency management stated that they are working to finalize charters to outline the duties and responsibilities of both Committees.

Training

Section 2824(2) of Public Authorities Law requires all individuals appointed to the board of a public authority to participate in State-approved training regarding their legal, fiduciary, financial and ethical responsibilities as directors of an authority within one year of appointment to the Board. We found that four of the prior seven board members attended the required State-approved training in April 2007, although all of the individuals had been on the Board for over a year. Since six board members have recently been appointed, they have until the end of 2008 to participate in training in order to be in compliance with this requirement.

Management Practices

Internal Control Assessment

Section 2800(2) of Public Authorities Law requires authorities to assess and report on the effectiveness of their internal control structure and procedures.

Agency management had not conducted any assessment of internal controls at the time of our review and was unaware of any internal control assessment that may have taken place under the prior management, or of any internal control policies of the Town that were in effect for the Agency. Agency management indicated that they will be working with the Town Comptroller to develop specific internal control practices.

Uniform Tax Exemption Policy

Section 874(4) of General Municipal Law requires agencies to establish a uniform tax exemption policy and to provide guidelines for claiming real property, mortgage recording, and sales tax exemptions. The guidelines are to include the period and percentage of tax exemptions and the types of projects to receive exemptions. The policy should consider factors such as the extent to which jobs will be created and retained, the estimated value of tax exemptions, whether exemptions will be reimbursed if the project does not meet its intended purpose, the impact on existing businesses, and whether the project has public support. Agencies are also required to establish a procedure from deviating from the uniform tax exemption policy.

We found the Agency has established a uniform tax exemption policy ("policy"). This policy provides that financial assistance in the form of sales and use tax and mortgage recording tax exemptions will be granted for approved projects. The policy does allow the Agency to grant real property (including county, town, and school) tax exemptions; although Agency management indicated that such property tax exemptions are rarely approved. The policy identifies the percentages and the time period for which sales tax exemptions are granted, the types of projects and items for which sales tax exemptions are allowed, and the factors to consider when deviating from the standard policies.

However, the policy does not require the Agency to consider the extent to which jobs will be created or retained, the value of tax exemptions requested, or the impact on existing businesses when determining the financial assistance to be provided. The policy also does not stipulate that financial assistance will be reimbursed if the project does not meet the intended purpose. Agency management indicated that they will be reviewing their uniform tax exemption policy to determine if any changes should be made.

Section 874(4) of General Municipal Law requires procedures for payments in lieu of taxes (PILOTS) be included in the uniform tax exemption policy. Good governance practices would also suggest that formal procedures be adopted to monitor adherence with the PILOT agreement.

The policy states that the applicant will be required to pay the full amount of real property taxes, unless the project applicant entered into a PILOT agreement with the Agency to pay less than the full amount of real property taxes that would be levied had the project not been awarded financial assistance. The policy also states that the affected taxing jurisdictions are responsible for the assessment, billing, and collection of all PILOTS and the normal taxes levied by the same. Agency records indicate that there were nine projects making PILOT payments during the period of our review. However, the affected taxing jurisdictions do not routinely provide the Agency with information on the amount of PILOTS billed and collected. As a result, the Agency is unable to adequately monitor the projects that have PILOT agreements to ensure that the terms of the agreement are met.

Financial Controls

Good financial management practices require that payments for services be accurate and deposited in a timely manner. According to the Agency's application for financial assistance, the Agency's administrative fee for the indirect expenses incurred by the Agency is equal to one-half of one percent of the total project cost. For the four projects we reviewed, we found that all four project owners paid the incorrect administrative fee based on the total project cost on the application (one overpaid and three underpaid.) There was no documentation maintained to justify or explain why the Agency deviated from their normal fee assessment. Further, Agency records indicate that payment of one of these administrative fees was made in November 2006 yet was not deposited to the Agency's account until November 2007.

Property Disposition

Section 2896 of Public Authorities Law requires public authorities to adopt guidelines regarding the use, awarding, monitoring, and reporting of contracts for the disposal of real property. The guidelines should also designate an officer to be responsible for the execution of real property contracts, and be annually reviewed and approved by the Board and provided to the Office of the State Comptroller by March 31.

The Agency has established property disposition guidelines which provide that property owned by the Agency will not be disposed of for less than fair market value. However, the policy does not comply with the other requirements of Section 2896, since it does not provide detailed instructions for the use, award, monitoring and reporting of contracts for the disposal of property, nor does it designate a contracting officer or require an annual review and approval by the Board. In addition, we found

no documentation to show that the property disposition procedures were provided to the State Comptroller.

We also found that the Agency does not have adequate information on the one parcel of real property that it owns. The audited financial statements indicate that the Agency owns land and a building with a value of over \$225,000. Further, the annual audit indicates that the property is leased to a not-for-profit organization through 2009 for an annual payment of \$1, but Agency management was unable to provide us with information on this lease. The lease payments are significantly below fair market value, and not in accordance with the Agency's property disposition guidelines.

Procurement Guidelines

Section 104(b) of General Municipal Law requires goods and services to be procured pursuant to competitive bidding in a manner that assures the prudent and economical use of public moneys, and requires the Board to identify a purchasing officer and annually review the procurement policy. We found that the Agency has not established procurement guidelines as required by Law. Agency management indicated that they will review the Town's procurement policy in order to establish and adopt its own procurement policy, in compliance with the Law.

Section 2824 of Public Authorities Law requires the Board to review and monitor the financial and management controls of the authority. An inventory of Agency contracts and agreements is an essential management control for monitoring expenses paid for outside vendors, organizations and businesses. We found that the Agency does not maintain a list of all of its contracts or written agreements. Based on financial records we were able to identify potential business contracts with the Agency; however when we requested the contract agreements for these businesses Agency management was unable to locate this documentation. Therefore, we were unable to determine if the Agency used a competitive bidding process or other means to ensure that goods and services obtained were acquired appropriately and at fair value.

Investment Guidelines

Section 2925 of Public Authorities Law requires all authorities to establish guidelines to govern investment practices. These guidelines should instruct officers regarding the investing, monitoring and reporting of funds, require that an independent audit of investments be done annually, and require that it be reviewed annually by the Board. Prior to implementation of the Act in 2006, industrial development agencies were only required to comply with the investment provisions of sections 10 and 11 of General Municipal Law. We found that the Agency has established an investment policy consistent with General Municipal Law.

For example, the policy addresses collateralizing of deposits, permitted investments, identifies the authorized financial institutions, and designates the Town Comptroller to safeguard investments. Additionally, the Agency annually reviews and approves the investment policy, and the independent auditor considers the investments of the Agency during the annual independent audit.

However, the Agency's policy is not annually reviewed and approved by the Board, nor does the policy require investments to be audited annually. Further, the policy does not include instructions on how the Agency's investments are to be reported. We found that investments were adequately collateralized, and that the Board Chair was provided with quarterly investment reports from the Town Comptroller. However, an annual investment report was not filed with the municipality or formally presented to the full Board. Given that the Agency has over \$2 million in investments, equal to 90 percent of its total assets, the Agency should revise its policy to include the requirements of the Public Authorities Law and General Municipal Law. This will ensure that investments are adequately collateralized and appropriately monitored by the Board.

Public Access

Section 859-a of General Municipal Law states that an agency must hold a public hearing with respect to a proposed project and financial assistance, and that thirty days notice be given in advance of the hearing. We could not determine whether the Agency complied with the thirty day notice, since there was inadequate documentation in the project folders to determine if and when public notice was posted. For example, in some instances there was no indication that a public notice was posted at all, and in other instances there was documentation to indicate the public notice was printed in the newspaper.

Section 2800(2) (b) of Public Authorities Law requires local authorities to make information regarding its mission, current activities, and financial data accessible to the public to the extent practicable through the use of Internet web sites. We found the Agency does not have its own web site, but that some limited information on the Agency is included on the Town's web site. At the time of our review, only contact information for the Agency was provided on the Town's website, while the agendas, meeting schedules, and meeting minutes were posted for other municipal boards. Agency management indicated that they are currently seeking web site development services, so that more information on the Agency operations and financial benefits is available to the public and potential project applicants.

Annual Report

Section 2800(2) of Public Authorities Law requires authorities to prepare annual reports disclosing information related to their operations, management, and finances, and to submit this report within 90 days of the end

of the fiscal year. The Agency did not prepare or submit an Annual Report for the 2006 fiscal year, which was due to the Authority Budget Office by March 31, 2007. Agency management indicated that they would comply with this requirement and submit the Annual Report for 2007 on time, using the Public Authorities Reporting Information System (PARIS), but as of the date of this report, has only entered some of the required information in PARIS.

Annual Financial Report

Section 859(1) of General Municipal Law requires agencies to prepare an audited financial statement within 90 days of the end of their fiscal year, to be submitted to the State Comptroller. The statement is to include schedules for straight-lease and bond transactions, as well as information on variable interest rates for bonds; amount of tax exemptions and number of jobs created and retained for projects. The Agency submitted its 2006 Annual Financial Report to the State Comptroller within the ninety day timeframe; however the information that was submitted was not audited information as required by General Municipal Law. In addition, the Agency did not include all required information in the report since one project was omitted and the benefits received by another project were not reported.

Budget Report

Section 2801 of Public Authorities Law requires local authorities to submit budget information to several entities sixty days prior to the start of their fiscal year. The Agency did not submit their 2007 or their 2008 budget to the Authority Budget Office 90 days prior to the start of its fiscal year. The Agency did subsequently adopt budgets for both 2007 and 2008 in December 2007, and submitted this information in February 2008, using PARIS.

Compliance Issues Summary

Board Composition

The responsibilities of Board officers are not separate and distinct from the management functions performed by staff, such as executive director or chief financial officer, as stipulated in Section 2824(3) of Public Authorities Law.

Board Oversight

The Board does not adequately review and monitor the implementation of financial and management controls of the Agency, as required by Section 2824 of Public Authorities Law.

Financial Disclosure

Three of the Agency's Board members did not submit annual financial disclosure statements to the Town Attorney by the established deadline, in accordance with Section 2825(3) of Public Authorities Law.

Internal Control Assessment

Agency management has not conducted an internal control assessment, as required by Section 2800(2) of Public Authorities Law.

Disposition of Property

The Agency's property disposition guidelines do not include detailed instructions for awarding and monitoring contracts for property disposal, and the guidelines were not submitted to the State Comptroller, as required by Section 2896(1) of Public Authorities Law.

Procurement Guidelines

The Agency has not adopted a policy for the procurement of goods and services by the Agency, as required by Section 104-b of General Municipal Law.

Investment Guidelines

The Agency's investment guidelines are not in full compliance with the auditing and reporting requirements of Section 2925 of Public Authorities Law.

Public Access

The Agency is not posting information on its current projects or financial data on its web site, as required by Section 2800(2)(b) of Public Authorities Law.

Annual Report

The Agency did not submit an Annual Report for 2006 to the Authority Budget Office, as required by Section 2800 of Public Authorities Law.

Annual Financial Report

The Agency did not submit complete audited financial information to the State Comptroller, as required by Section 859 of General Municipal Law.

Good Governance Recommendations

1. The Board should update its by-laws to reflect the current requirements of Sections 2824 of Public Authorities Law; specifically ensuring the responsibilities of Board officers are separate from the management functions performed by staff.
2. The Board should improve its oversight of the financial practices of the Agency, including reviewing budgeted to actual receipts and expenditures.
3. The Board should not accept or act on project applications unless they are complete and accurate.
4. The Agency should develop objective criteria to evaluate requests for financial assistance, such as considering the number and type of new jobs to be created and the jobs being retained.
5. The Board should monitor approved projects to ensure that the terms included in the project application are met, including verification of employment data.
6. The Board should ensure that all newly appointed members submit their financial disclosures to the Town Attorney by the required deadline.
7. The Audit Committee and Governance Committee should actively meet to fulfill their responsibilities, as well as develop charters to guide their operations, and have the charters adopted by the Board.
8. The Board should ensure that all newly appointed Board members receive the appropriate State approved training.
9. Agency management should establish a formal procedure for assessing and reporting on the effectiveness of the Agency's internal control structure and procedures as required by Section 2800(2)(a)(9).
10. Agency management should revise the Uniform Tax Exemption Policy to require consideration of the number of jobs to be created or retained, the value of exemptions requested, and other factors in determining the amount of financial assistance to provide to projects, as well as include provisions to recapture assistance, when necessary.
11. Agency management should establish procedures to monitor compliance with the terms of PILOT agreements.

12. Agency management should establish adequate controls to ensure that the appropriate administrative fees are paid and deposited promptly.
13. Agency management should establish property disposition guidelines that comply with all of the requirements of Section 2896 of Public Authorities Law, including detailed instructions for awarding and monitoring contracts for property disposal.
14. Agency management should ensure that it has adequate records of its real property and ensure that its lease transactions adhere with its property disposition guidelines.
15. Agency management should establish a procurement policy to determine the process the Agency will take in obtaining quotes for goods and services.
16. The Agency should maintain an updated list of all contracts, leases and agreements held and paid by the Agency.
17. The Board should revise its investment guidelines to include instructions for reporting investments, provisions for an annual audit, and requirements for annual review and approval.
18. Agency management should develop standard procedures for advertising notices for public hearings that include the number of days of notice to be given, the news publication(s) to be used, and the documentation to be retained.
19. Agency management should provide information on its mission, current projects, and financial data on its public web site, as well as other public information such as the project application, public hearing notices, Board meeting calendar and minutes, information on current projects, leases and properties and policy information.
20. Agency management should prepare and submit the Annual Report required under Section 2800 of Public Authorities Law, using the Public Authority Reporting Information System (PARIS).
21. Agency management should submit complete and accurate audited financial information to the State Comptroller as required by Section 859 of General Municipal Law, using PARIS.
22. The Board should ensure that the Agency's annual budget is reviewed, approved and submitted timely, using PARIS.